

REMARKS

As a supplement to the office action response filed on September 29, 2008, Applicants have further amended claims 1 and 39. By way of this amendment, no new matter has been added. Claims 19, 21 and 36 were previously cancelled. Thus, claims 1, 18, 20, 22-35 and 37-40 remain pending in this application. Support for the amendments in claim 1 may be found in at least page 4, lines 8-10 of the English Translation, as well as FIGs. 5a-5d. Support of the amendments in claim 39 may be found in at least FIGs. 1-2.

At least for the reasons set forth below, as well the reasons set forth in the office action response dated September 29, 2008, Applicants respectfully traverse the foregoing rejections. Further, Applicants believe that there are also reasons other than those set forth below as well as the remarks and amendments made in the office action response dated September 29, 2008, as to why the pending claims are patentable, and reserves the right to set forth those reasons, and to argue for the patentability of claims not explicitly addressed herein, in future papers. Applicants respectfully request reconsideration of the present application in view of the above supplemental amendment, the following remarks, and the amendments made the office action response filed on September 29, 2008.

In view of the following arguments in this response as well as the response filed on September 29, 2008, all claims are believed to be in condition for allowance over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action. However, Applicants reserve the right to set forth further arguments supporting the patentability of their claims, including the separate patentability of the dependent claims not explicitly addressed herein, in future papers. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

1. Independent Claim 1

Independent claim 1 has been amended to include the recitation of “wherein the first rotatable cylinder and the second rotatable cylinder selectively press the leaves against one another as the air stream tears the leaves off plants,” (emphasis added). Support for these amendments may be found in the Applicants’ English translation in at least in at least page 4, lines 8-10 of the English Translation, as well as FIGs. 5a-5d.

i. The Combination of Kateley, Noel and Praca Does Not Teach All Elements of Independent Claim 1

The Examiner concedes that neither Kateley nor Noel disclose a first rotatable cylinder including includes peripheral grooves disposed circumferentially thereon, but that Praca discloses a similar roller 1 for a harvester, including helical grooves 41,” (*see Office Action, page 3*). Praca in no way compensates for the deficiencies of Kateley and Noel.

Praca teaches a hay conditioner for addressing the problem of “[w]hen a hay conditioner is placed directly behind a mower, the hay is not uniformly distributed . . . inasmuch as the two windrow boards each thrust the hay aside, with the result that the central portion of the crushing roll receives less material than the portions located near or at the ends,” (*see column 1, lines 10-21*). Applicants specifically draw attention to column 3, lines 46-52 and FIG. 3 of Praca (reproduced below for the Examiner’s convenience) to illustrate that Praca teaches a hay machine including two rolls 23 and 24 and a central portion 38 that is “provided with crossed helical grooves 41, 42 of very long pitch,” where “the hay can therefore engage within the grooves as it passes between the ends of the rolls, thereby permitting of uniform pressure over the full length of the rolls,” (*see column 4, lines 60-63*) (emphasis added). That is, Praca teaches a hay machine where hay will “engage within the grooves [41] as [the hay] passes between the ends of the rolls,” and does not teach or suggest that “the first rotatable cylinder and the second rotatable cylinder selectively press the leaves against one another as the air stream tears the leaves off plants.” To be clear, Praca actually **teaches away**

rolls 23 and 24 that “selectively press the leaves against one another as the air stream tears the leaves off plants” because Praca actually teaches that the grooves 41 of the rolls 23 and 24 are for engaging with hay “as it passes between the ends of the rolls.” Thus, the combination of Kateley with Noel and Praca does not teach every recitation of independent claim 1 as required in *In re Vaeck*.

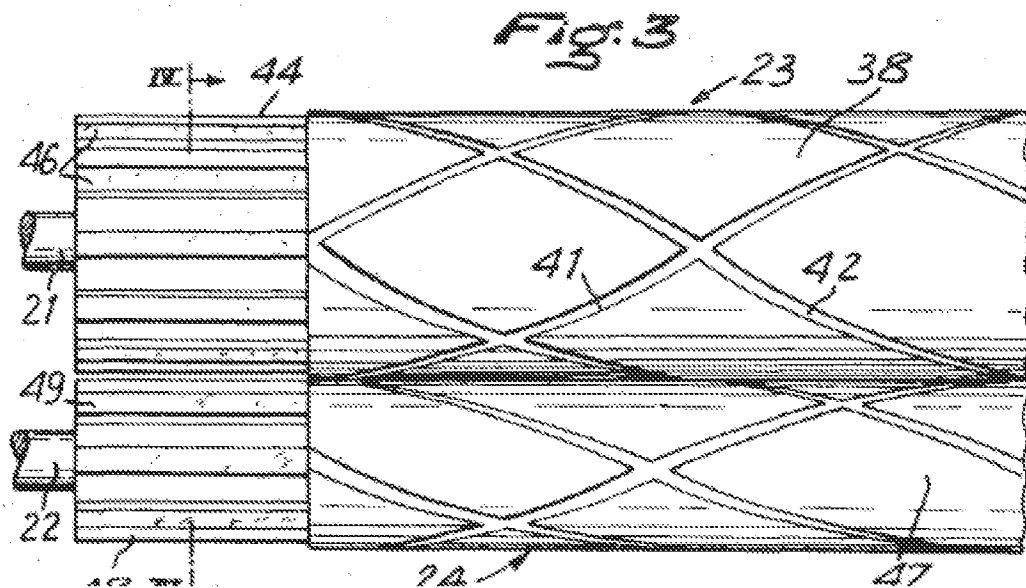


FIG. 3

2. Dependent Claim 39

Dependent claim 39 includes the recitation of “wherein the incline is located at a rearward edge of the cutout with respect to the working direction of the leaf stripping device, and is angled towards the second cylinder for directing objects away from the first and the second rotatable cylinders,” (emphasis added). Support for these recitations may be found in FIGs. 1-2.

Dependent claim 39 is patentable at least by being dependent on allowable base claim 35, although the claim includes recitations that also define over the prior art of record. As discussed above, Kateley only teaches a “guide plate 5 . . . to partially align the plant material with the cutting apparatus in advance of it as the cutter moves along the foliage to be cut,” (see column 2, lines 52-55) (emphasis added). That is, as seen in FIG. 2, Kateley only teaches a guide plate 5 that is used to

“align the plant material with the cutting apparatus” in “advance of” the cutting apparatus, and actually **teaches away** from the guide plate 5 “located at a rearward edge of the cutout with respect to the working direction of the leaf stripping device.” In other words, the guide plate 5 of Kateley is incapable of being placed on the “rearward edge of the cutout with respect to the working direction of the leaf stripping device” because Kateley teaches aligning the plant material “in advance of” the cutting apparatus. Thus, the combination of Kateley with Noel and Praca does not teach every recitation of dependent claim 39 as required in *In re Vaeck*.

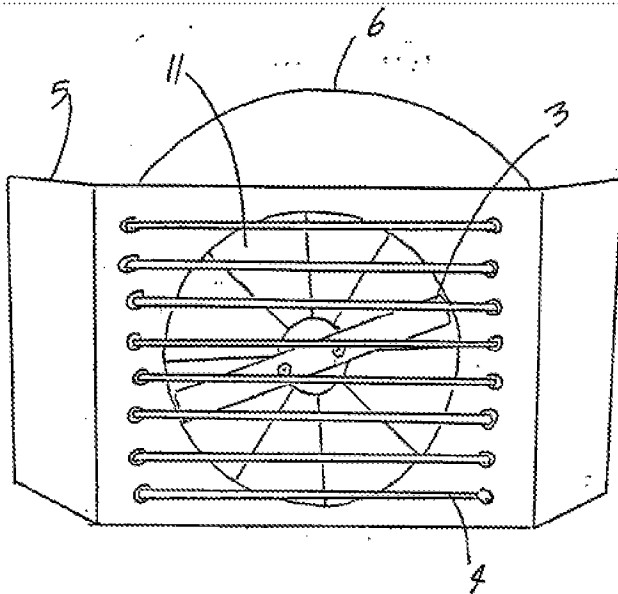


FIG. 2 of Kateley

CONCLUSION

Reconsideration and allowance of the claims as now presented are respectfully requested. In view of the above clarifying amendment and remarks, applicant believes the pending application is in condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

It is believed that any additional fees due with respect to this paper have already been identified in any transmittal accompanying this paper. However, if any additional fees are required in connection with the filing of this paper that are not identified in any accompanying transmittal, permission is given to charge our Deposit Account No. 18-0013, under Order No. 66795-0001 from which the undersigned is authorized to draw.

Dated: October 8, 2008

Respectfully submitted,

Electronic signature: /Michael B. Stewart/
Michael B. Stewart

Registration No.: 36,018
RADER, FISHMAN & GRAUER PLLC
Correspondence Customer Number: 010291
Attorney for Applicant